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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 **Scott Johnson,**

13 Plaintiff,

14 v.

15 **Blackhawk Centercal, LLC,** a
16 Delaware Limited Liability
17 Company;
18 **Starbucks Corporation,** a
19 Washington Corporation; and Does
20 1-10,

21 Defendants.

Case No. 3:17-cv-02454-WHA

**Plaintiff's Response to the
Court's Order to Show Cause
dated 3-29-19**

22 On March 29, 2019, this court denied Johnson's motion for summary
23 judgment, holding that section 904.4.1 of the ADA Standards does not require
24 any amount of "clear" counter space¹ and that so long as the counter was built
25 in compliance with the ADA Standards, section 904.4.1 has been met² and
26 that the duty to maintain the accessibility of features (found in 28 C.F.R. §
27 36.211(a)) does not require that the wheelchair accessible counter be kept

28 ¹ Order (Docket Entry 120), p. 4, lines 18-20.

² Order (Docket Entry 120), p. 4, lines 6-8.

1 clear of merchandise to maintain any useable clear width.³ Given that the facts
2 are uncontested, the court asks why summary judgment should not be granted
3 for Starbucks.

4 Johnson agrees that it would be a waste of the court's and the parties'
5 resources to force another round of briefing given that the facts are
6 uncontested and the issues well developed. Given the court's interpretation of
7 the law, there is no reason why the court should not grant summary judgment
8 to Starbucks and let Johnson seek appellate review.

9 If the court is inclined to stick with its March 29, 2019 ruling, then
10 summary judgment should be granted to Starbucks. If, however, the court is
11 inclined to add additional reasonings to its ruling, Johnson would respectfully
12 request an opportunity to address those reasonings.

13
14 Dated: April 2, 2019

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16 By: s/ Russell Handy
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Attorney for plaintiff
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³ Order (Docket Entry 120), p. 5, lines 1-22.